

HALL, MYERS, VANDE SANDE & PEQUIGNOT, LLP
ATTORNEYS AT LAW

GEOFFREY R. MYERS
THOMAS J. VANDE SANDE
MATTHEW A. PEQUIGNOT
DENNIS A. FOSTER

OF COUNSEL
WILLIAM D. HALL

10220 RIVER ROAD, SUITE 200
POTOMAC, MARYLAND 20854
TELEPHONE: (301) 983-2500
FACSIMILE: (301) 983-2100

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Patent, Trademark
and Copyright Law
and Litigation

FACSIMILE TRANSMITTAL SHEET

TO: Examiner Steven J. Ganey
FIRM: The United States Patent & Trademark Office
FAX NO: 703-872-9306
FROM: Matthew A. Pequignot, Esquire
RE: Response to Office Action for 10/092,294

Number of pages 5
(Includes Cover Page)

Confirmation Copy Y X N

Date 9/15/04

MESSAGE:

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**PATENT
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of)
WALLACE FRANKLIN BANACH) Examiner: Ganey
Appl. No.: 10/092,294) Group Art Unit: 3752
Filed: March 7, 2002) Atty. Dkt. No.: 2494.140
For: WEIGHT FOR DRINKING)
APPARATUS)

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

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Sir:

This Response is in answer to the Office Action dated June 15, 2004.

REMARKS

As an initial matter, Applicant expresses his sincere gratitude to Examiner Ganey for the kind removal of the subject restriction requirement. The Examiner's consideration of the patentability of all claims is appreciated.

In the subject Office Action, the Examiner has rejected claims one through eight under 35 U.S.C. 112, first and second paragraphs, for failing to comply with the enablement requirement, failing to comply with written description requirement, and for being indefinite for failing to particularly point out and distinctly claim the subject matter of Applicants invention. Furthermore, the Examiner has rejected claims one and two as anticipated by Sasaki under 35 USC 102(b). For the reasons which follow, reconsideration of the subject rejections is respectfully requested.

On page nine of the subject application, Applicant describes a weight having a passage which is asymmetrical along at least a portion of its length. In further describing such a weight, Applicant states that, for example, the diameter of the passage is constricted in at least one area and in certain embodiments, the constriction in the passage resembles an oval in shape. It also, of course, states that other shapes may be employed. Then, using terms contained in the specification, Applicant, in claims one and two of the application, claims a weight having a passage wherein a portion of the passage has an asymmetrical circumference.